

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN T. WILLIAMS, *et al.*,

Plaintiffs,

-against-

UNITED STATES OF AMERICA, *et al.*,

Defendants.

19-CV-8736 (CM)

ORDER DENYING REQUEST FOR PRO
BONO COUNSEL

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff John T. Williams is proceeding *pro se* and *in forma pauperis*. On November 12, 2019, the Court directed Plaintiff to show cause, within thirty days, why his claims under the Federal Tort Claims Act should not be dismissed as either untimely or unexhausted. On November 20, 2019, Plaintiff Williams moved for appointment of *pro bono* counsel to represent him and his two businesses.

The factors to be considered in ruling on an indigent litigant's request for counsel include the merits of the case, Plaintiff's efforts to obtain a lawyer, and Plaintiff's ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are "[t]he factor which command[s] the most attention." *Cooper*, 877 F.2d at 172. Because the Court is inclined to dismiss Plaintiff's claims as either untimely or unexhausted, Plaintiff's motion for counsel is denied without prejudice to renewal at a later date.

The Court grants Plaintiff thirty days from the date of this order to file a declaration as outlined in the November 12, 2019 order.

CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket. Plaintiff's motion for *pro bono* counsel (ECF No. 7) is denied without prejudice, and the Clerk of Court is directed to terminate it.

Plaintiff must submit a declaration within thirty days from the date of this order. If Plaintiff fails to comply within the time allowed, and he cannot show good cause to excuse such failure, the complaint will be dismissed for the reasons set forth in the November 12, 2019 order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: November 27, 2019
New York, New York



COLLEEN McMAHON
Chief United States District Judge